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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,348	05/09/2001	Lutz Richter	A-2829	4692

7590

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EXAMINER
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WEEKS, GLORIA R

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 12/15/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/852,348

Applicant(s)

RICHTER ET AL.

Examiner

Gloria R Weeks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6,8,10-12 and 14-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6,8,10-12 and 14-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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***Response to Amendment***

1. This action is in response to Applicants' amendment received on September 9, 2003.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6, 8, 10-12, 14 and 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boss et al. (USPN 6,142,353) in view of Bodie et al. (USPN 5,518,228).

In reference to claim 20, Boss et al. discloses a gathering stapler comprising: a plurality of cooperating subassemblies including an operatively revolving endless chain (6) having a conveying strand running in a conveying direction (63) at a certain speed and conveying gathered folded sheets (11); a stapling carriage (15) attached to the conveying strand (via 29) and operatively oscillating in parallel with the conveying strand for running in synchronicity with the conveying strand in the conveying direction with certain time segments (column 3, lines 15-21); stapling heads (16) mounted to the stapling carriage (15) and adapted for ejecting staples; a stapling displacement (column 4, lines 31-37) configuration adapted for activating the stapling heads for ejecting staples; a delivery (10); an ejector (column 3, lines 9-14); and a plurality of subassembly drives (12, 14, 39) running in continuous operation. Boss et al. does not disclose a motor for separately controlling at least some of the subassemblies.

Bodie et al. teaches a gathering fastener comprising a plurality of subassemblies including a stapling carriage (104), a collecting chain (20), a stapling displacement configuration

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(102), a delivery (110), and an ejector (116); at least two of the subassemblies (20, 116) each having a separate and dedicated drive; controllable motors (118, 122) forming power sources for the dedicated drives (column 7, lines 49-51, 54-55); and control units (150) connected to and operatively associated with each of the motors (118, 122, 154), the control units (150) synchronizing a movement of one of the subassemblies with a movement of at least one another of the subassemblies (column 7, lines 38-46, 66-67; column 8, lines 1-10; figures 7 and 12).

Although Examiner feels as though it is well known in the art to substitute individual motor drives for subassemblies that are driven by one central drive unit, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the drive arrangement of Boss et al. to include the individual motor drives for separate subassemblies as taught by Bodie et al., for the purpose of providing individual control over each subassembly.

With respect to claim 6 and its limitations as stated above, Boss et al. in view of Bodie et al. discloses a gathering stapler which comprises a central control device (Bodie et al.-120) controlling the control units (Bodie et al.-150) of the controllable motors (Bodie et al.-118, 122).

Regarding claim 8 and its limitations as stated above, Boss et al. in view of Bodie et al. discloses a gathering stapler wherein at least one of the control units (Bodie et al.-150) has a microprocessor (Bodie et al.-column 9, line 21).

In reference to claim 10 and its limitations as stated above, Boss et al. in view of Bodie et al. discloses a gathering stapler wherein at least one of the control units (Bodie et al.-150) has a programmable control device for the respective motor(s) (Bodie et al.-column 7, lines 35-38; figures 12-16b).

Regarding claim 11 and its limitations as stated above, Boss et al. in view of Bodie et al. discloses a gathering stapler wherein at least one of the control units has an input/output unit for

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programmable control (Bodie et al.-column 7, lines 35-45, 66-67; column 8, lines 1-10; figures 12-16b).

With respect to claim 12 and its limitations as stated above, Boss et al. in view of Bodie et al. discloses a gathering stapler wherein at least one of the control units comprises a motor controller and a motor control end stage (Bodie et al.-figures 12-16b).

Regarding claim 14 and its limitations as stated above, Boss et al. in view of Bodie et al. discloses a gathering stapler further comprising a display device (Bodie et al.-130) and an operating panel (Bodie et al.-120) connected to the at least one control unit (Bodie et al.-150; figure 5).

In reference to claim 21 and its limitations as stated above, Boss et al. in view of Bodie et al. discloses a gathering stapler wherein a first one of the plurality of subassembly drives includes a controllable motor (Bodie et al.-118) connected to the chain (Boss et al.-6; Bodie et al.-20) and a second one of the plurality of subassembly drives includes a controllable motor (Bodie et al.-118; column 12, lines 5-11) connected to the stapling cartridge (Boss et al.-15; Bodie et al.-10, 104).

Regarding claim 22 and its limitations as stated above, Boss et al. in view of Bodie et al. discloses a gathering stapler wherein a third one of the plurality of the subassembly drives includes a controllable motor connected to the chain and a second of one of the plurality of subassembly drives includes a controllable motor connected to the stapling carriage (Boss et al.-column 4, lines 31-37)

With respect to claim 23 and its limitations as stated above, Boss et al. in view of Bodie et al. discloses a gathering stapler including motor control units (Bodie et al.-120, 150) each connected to a respective one of the motors (Bodie et al.-188, 122).

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In reference to claim 24 and its limitations as stated above, Boss et al. in view of Bodie et al. discloses a gathering stapler wherein at least one of the motor control units (Bodie et al.-120, 150) includes a revolution speed detector (Bodie et al.-126).

Regarding claim 25 and its limitations as stated above, Boss et al. in view of Bodie et al. discloses a gathering stapler wherein at least one of the motor control units includes a phasing detector (Bodie et al.-160; column 11, lines 49-53).

### ***Response to Arguments***

4. Applicant's arguments filed September 9, 2003 have been fully considered but they are not persuasive. Applicant argues that the references fail to show or suggest a plurality of subassembly drives running in continuous operation, and at least some of the subassembly drives each including a controllable motor. Examiner disagrees on the grounds that Bodie et al. discloses a first subassembly comprising a stapling carriage (104), a conveyor (114) and an ejector with a motor drive (122) and a second subassembly comprising a delivery (10) and a stapling carriage (104) with a motor drive (118), wherein each of the first and second subassemblies has a controllable motor. Boss et al. teaches all of Applicant's claimed limitations except for the specific use of a motor to drive the subassemblies. Therefore, Examiner found the combination of Boss et al. in view of Bodie et al. as an adequate teaching of driving several subassemblies with synchronized and separate motors.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (703) 605-4211. The examiner can normally be reached on 7:30 am - 6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 305-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1789.

Gloria R Weeks  
Examiner  
Art Unit 3721

grw  
December 1, 2003



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700